

1) Eckstein Repeated Key Parts of the Babbitt-Eckstein Conversation Shortly After the Meeting to at Least Four People, Each of Whom Has Corroborated Eckstein's Version of the Conversation

Within moments after his meeting with Babbitt, Eckstein recounted the entire conversation to Mark Goff, another representative of the Four Feather's group, and, in Goff's presence, described by cell phone the Secretary's explanation for his refusal to delay the decision to Fred Havenick's friend Jerome Berlin, who was trying separately to help secure a delay.⁸⁰⁰ That evening while traveling back to Phoenix, Eckstein described the conversation by phone to his wife, Florence, and the next day he provided the full details to Havenick, who operated the Hudson dog track's parent company and was working in partnership with the three applicant tribes. Within days, Eckstein also recounted the key aspects of the conversation to his senior partner, Jack Brown, who is a longtime friend and former boss and mentor of Babbitt's.⁸⁰¹

⁷⁹⁹(...continued)
above, there is no direct evidence apart from Babbitt's statement to Eckstein that supports the conclusion that Babbitt's statement to Eckstein was true.

⁸⁰⁰Berlin recalls, "He told me that he spoke to Mr. Babbitt and Mr. Babbitt told him that he received a call from Harold Ickes at the White House and Harold told him that this issue had to be resolved before sundown." Berlin G.J. Test., Sept. 15, 1999, at 37.

⁸⁰¹A former Brown & Bain associate whom Eckstein enlisted three days after the denial to assist in briefing the client on the appellate standard in the case recalls hearing from Eckstein only the Ickes component of the July 14 Babbitt discussion, but he recalls that key segment in details consistent with Eckstein's account. Likewise, Eckstein apparently provided a description of only the Ickes element of the discussion during his December 1995 meeting with Havenick's litigation counsel, which resulted in only that aspect of the discussion being featured in Eckstein's January 1996 affidavit for the civil lawsuit. Eckstein repeatedly has stated his inclination to limit circulation of any details about this conversation with his old friend, and that he provided the lawyers only those details either that they requested specifically or that he understood were necessary to the client's immediate legal objective. Eckstein's behavior is fully (continued...)